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**BZA-1878**  
**ANDREW S. GUTWEIN**  
**Variance**

**STAFF REPORT**  
**March 21, 2013**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, attorney Andrew Gutwein, with consent of property owner and representing TKO Graphix which specializes in applying vinyl lettering and wraps to truck trailers, is requesting a variance to eliminate the paving requirement and allow gravel maneuvering aisles for truck trailer storage. TKO Graphix buys trailers from the Wabash National Corporation and finishes and resells the trailers to an end user. The 30-acre property is located on CR 450 S where 450 jogs and becomes CR 430 S, just east of US 52 in Sheffield 18(NW)22-3. (UZO 4-6-15(a))

**AREA ZONING PATTERNS:**

In 1997 this site was part of a larger overall industrial zone expansion to the southeast of Lafayette (Z-1715). This expansion took place in four rezones between 1996 and 2001 (Z-1640, -1714, -1715, & -2040) and resulted in the current I3 zoning. Agricultural zoning (A) is adjacent to the north, east and south of this site. Land directly west was also part of the industrial expansion area rezoned in 1997 and is zoned I3 industrial.

The only BZA activity in the area was two variance requests: in 2006 a variance for increased signage was denied and in 2009 a setback variance was approved. Both of these requests were for businesses that are located along Dale Drive, a small industrial subdivision north of CR 400 South.

**AREA LAND USE PATTERNS:**

The site is currently in row crop production as is all surrounding land. Abutting the east property line is a shared driveway for four homes located further to the northeast. This drive accesses the county road where CR 450 S turns 90° and runs east-west as CR 430 S.

**TRAFFIC AND TRANSPORTATION:**

The *Thoroughfare Plan* classifies CR 450 South as a rural local road. The submitted site plan shows two entrances off of 450; one entrance for passenger vehicles and one for truck traffic.

All customer and employee parking spaces are shown as asphalt. The required parking for this use is one space per employee on the largest shift plus one space per 200 sq. ft. of office space. According to the petitioner the largest shift will have 10 employees and the building will have 600 sq. ft. of office space which equates to 13 required parking spaces. Fifteen spaces are shown on the site plan with the potential to add an additional 14 spaces for a larger shift and/or more office space.

The site plan shows 80' wide maneuvering aisles and 60' deep storage spaces for the trailers. Petitioner has designed aisles with enough space to maneuver truck trailers in and out of right angle spaces. Paving of maneuvering aisles is a requirement of the ordinance. The ordinance does not require storage areas to be paved (where trailers will be stored).

#### **ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

The site plan submitted shows a drainage pond on the north side of the site; if this request is not approved and the aisles are paved as required, the developer will adjust its drainage plans to account for a different impervious surface.

City utilities are not available to this site; well and a commercial septic will serve the development.

A type C bufferyard is required where I3 land is adjacent to A-zoned land. The site plan shows the required bufferyard in place to the north and northeast. While not required by the ordinance, petitioner's site plan shows an earthen mound surrounding the site for both visual and security purposes.

#### **STAFF COMMENTS:**

TKO Graphix purchases trailers from Wabash National Corporation, finishes and then resells trailers to an end user. The company is proposing to use crushed stone on approximately 20 acres for midterm parking and maneuvering of trailer inventory and other equipment. The site plan shows 457 15' x 60' storage spaces. The ordinance requires paving of driving and maneuvering aisles, it does not require the paving of storage spaces for the trailers. All required parking for employees and customers will be paved and striped. The site plan shows a 22' tall berm and a 6' security fence around the site that creates a visual buffer from the storage area and enhances security of the site. The site plan also includes a 12,825 sq. ft. commercial building that contains 600 sq. ft. of office space.

Regarding the ballot items:

1. The Area Plan Commission voted on March 20, 2013 that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL BE** injurious to the public health, safety, and general welfare of the community. Allowing the use to have large gravel driving aisles negatively impacts the county's air quality by increasing particulate matter and potentially jeopardizing our air quality attainment designation.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. The site plan design minimizes negative effects on adjacent residential properties by creating a 22' tall buffer that will visually conceal the storage area. All other effects are minimal.

4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. All maneuvering aisles in the I3 zone must be paved. Petitioner cites that gravel is generally .This could be that the sites are legally nonconforming or not requiring asphalt was an oversight by the administrative officer. However paving is a requirement that is met by most businesses and all new development in the I3 zone. In fact, this business's current site, zoned I3, is paved, (Rosstone site).
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The variance application states that storage of trailers is an unusual situation. The ordinance states any user in an I3 zone storing items outside requires paved maneuvering aisles. An example of this requirement being met is the Subaru, Nanshan Aluminum, and TRW properties. Additionally, maneuvering aprons for loading berths for truck trailers are required to be paved.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed and solely based on a perceived reduction of or restriction on economic gain. Because the property in question is an unimproved, blank slate, the petitioner is able to develop the site to ordinance standards. Petitioner has presented no evidence to support any hardship or site irregularity leading staff to believe that the only reason for this request is the cost associated with paving the maneuvering aisles.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship. If the board can find that a hardship exists on an undeveloped site, the minimum relief would be to pave 60' of the 80' aisles. This 60' estimate is based on a required width to maneuver a trailer into a 15' x 60' loading berth.

**STAFF RECOMMENDATION:**

Denial